

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GENWORTH LIFE AND ANNUITY)	
INSURANCE COMPANY (f/k/a FIRST)	
COLONY LIFE INSURANCE COMPANY),)	
)	
Plaintiffs,)	
)	
v.)	No. 07 CV 06400
)	Honorable Samuel Der-Yeghiayan
DOROTHY CIURA and)	Magistrate Judge Michael Mason
LISA VANDENBERGHE (n/k/a Lisa Ortega),)	
)	
Defendants.)	
-----)	
LISA VANDENBERGHE (n/k/a Lisa Ortega),)	
)	
Cross-Plaintiff,)	
)	
v.)	
)	
DOROTHY CIURA,)	
)	
Cross-Defendant)	

DEFENDANT/CROSS-PLAINTIFF'S LR56.1 STATEMENT OF FACTS

Defendant/Cross-Plaintiff, LISA VANDENBERGHE (n/k/a LISA ORTEGA) (referred to herein as "VANDENBERGHE"), pursuant to LR56.1 of the local general rules for the U.S. District Court of the Northern District of Illinois, submit this statement of material facts as to which there is no genuine issue and which entitle defendants to judgment as a matter of law. In accordance with LR56.1(a)(1), the following are attached:

Exhibit 1 – Genworth's Complaint for Interpleader
Exhibit 2 – Vandenberghe's Answer and Cross-Claim
Exhibit 3 – Ciura's Answer to Complaint for Interpleader
Exhibit 4 – Ciura's Answer to Cross-Claim
Exhibit 5 – Affidavit of Kimberly Hudson of GLAIC, with Exhibit A "The Policy"

PARTIES

1. Genworth Life and Annuity Company (hereinafter referred to as “GLAIC”) is a corporation incorporated under the laws of Delaware, having its principal place of business in Richmond, Virginia. (GLAIC Complaint for Interpleader and CIURA’S Answer, ¶1).

2. Lisa Vandenberghe (n/k/a Lisa Ortega) (“Vandenberghe”) is a resident and citizen of Decatur, Alabama. (GLAIC Complaint for Interpleader and CIURA’S Answer, ¶2).

3. Dorothy Ciura is a resident and citizen of DuPage, County, Illinois. (GLAIC Complaint for Interpleader and CIURA’S Answer, ¶3).

JURISDICTION AND VENUE

4. GLAIC’S Complaint for Interpleader was brought pursuant to 28 U.S.C. § 1335, 1397, and 2361 (2007), with respect to the rights and obligations of the parties pursuant to a GLAIC life insurance policy (Policy No. 2100851) (the “Policy”) issued to Steven Ciura on April 14, 1995. (GLAIC Complaint for Interpleader and CIURA’S Answer, ¶4).

5. The two adverse claimants in this action – Dorothy Ciura and Vandenberghe - are of diverse citizenship and the amount in controversy exceeds \$500.00. (GLAIC Complaint for Interpleader and CIURA’S Answer, ¶5).

FACTS

6. Steven Ciura (the “Insured”) was the Owner of a GLAIC life insurance policy (Policy No. 2100851) (the “Policy”) issued to Steven Ciura on April 14, 1995. (A true and correct copy of the Policy is incorporated herein by reference, see Exhibit “A” to Plaintiff’s Complaint for Interpleader). (GLAIC Complaint for Interpleader and CIURA’S Answer, ¶6; Exhibit A to Complaint for Interpleader; Cross-Claim, ¶1; Affidavit of Kimberly Hudson, ¶2a).

7. The Insured died on July 23, 2003 while the Policy was in full force and effect and GLAIC became obligated to pay life insurance benefits in the amount of \$50,000 under the

Policy. (GLAIC Complaint for Interpleader, ¶7; Cross-Claim and CIURA'S Answer to Cross-Claim, ¶2; Affidavit of Kimberly Hudson, ¶2f).

8. On the date of the insured's death, Lisa Vandenberghe (n/k/a Lisa Ortega) ("Vandenberghe") was the sole named beneficiary of the Policy. (GLAIC Complaint for Interpleader, ¶7; and Cross-Claim, ¶3; Affidavit of Kimberly Hudson, ¶2f).

9. The Policy contained the following provision regarding any Change of Owner and Beneficiary:

"The Owner may change the designation of Owner and Beneficiary during the Insured's lifetime. Any change is subject to the consent of an irrevocable beneficiary. Written notice of change must be filed at the home office in a form acceptable to the Company. The new designation will then take effect as of the date the Owner signed the notice."

(Cross-Claim, ¶4; Exhibit A to GLAIC's Complaint for Interpleader; Affidavit of Kimberly Hudson, ¶2d).

10. Prior to Steven Ciura's death, no such "written notice of change" of beneficiary was signed by Steven Ciura to replace or change Lisa Vandenberghe as the sole named beneficiary of the Policy. (Cross-Claim, ¶5; Affidavit of Kimberly Hudson, ¶2e).

11. No written notice of change of beneficiary was received or filed at the home office, in any form, since the inception of the Policy. (Affidavit of Kimberly Hudson, ¶2e).

Respectfully submitted,

Attorney for Lisa Vandenberghe
(n/k/a Lisa Ortega)

/s/ Mark W. Mathys
Mark W. Mathys

Mark W. Mathys
Law Office of Mathys & Schneid
1730 Park Street, Suite 224
Naperville, IL 60563
(630)428-4040
(630)428-0044 Fax
ARDC No. 6217305

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 24, 2008, I electronically filed the foregoing instrument with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Attorneys for GLAIC

William A. Chittenden, III wchittenden@cmn-law.com , acruz@cmn-law.com

Stuart F Primack sprimack@cmn-law.com , acruz@cmn-law.com

I the undersigned, an attorney, also served the above documents to the following individuals by mailing a copy to the above-named attorney(s) at the above address and depositing the same in the U.S. Mail before 4:00 p.m. at 1730 Park Street, Naperville, Illinois, on July 24, 2008, with proper postage prepaid:

Attorney for Dorothy Ciura

Craig Greenwood

4456 Seeley Avenue

Downer Grove, IL 60515

/s/ Mark W. Mathys

Mark W. Mathys

Attorney for Lisa Vandenberghe

(n/k/a Lisa Ortega)

Mark W. Mathys

Law Office of Mathys & Schneid

1730 Park Street, Suite 224

Naperville, IL 60563

(630)428-4040

(630)428-0044 Fax

ARDC No. 6217305